

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: WORLD TRADE CENTER
DISASTER SITE LITIGATION

**DECLARATION OF KENNETH A.
BECKER**

THIS DOCUMENT APPLIES TO ALL
IN RE WORLD TRADE CENTER
DISASTER SITE LITIGATION

21 MC 100 (AKH)

I, Kenneth A. Becker, under penalty of perjury, declare as follows:

1. I am an Assistant Corporation Counsel and Chief of the World Trade Center Unit in the Office of the Corporation Counsel of the City of New York. I submit this declaration in support of the City of New York's ("City's") motion to modify the subpoena *duces tecum* issued to the Fire Department of the City of New York and for protective relief.

2. Counsel for the involved parties have had discussions to resolve this dispute. As a result of those discussions, counsel for the subpoenaing parties has agreed that the City does not have to produce the names and Social Security numbers of study participants who were never parties to the World Trade Center litigation. Counsel for the subpoenaing parties takes the position that the City must produce the names and Social Security numbers of those study participants who were, at one time, plaintiffs in the 21 MC 100 litigation, but who have settled or otherwise discontinued their lawsuits. The City's position is that these former plaintiffs have not waived their privileges in the pending actions.

3. The parties were not able to resolve their differences on whether the City could redact the following elements of the study participants' data from its production: name, Social Security number, street address, place of residence, sex, race, height, and dates of birth, death, hire, and retirement. The City proposed to produce the year, rather than the date, for dates of birth, death, diagnosis, hire, and retirement. And it proposed to produce the county of residence for the study participants who lived in the five boroughs of New York City, or Nassau or Suffolk Counties, and the state of residence for all other study participants.

4. The parties agree that whatever medical and demographic information the Court orders to be produced should be protected by an appropriate protective order of confidentiality. To date, however, we have not reached an agreement on the terms of a protective order.

5. A copy of the subpoena issued to the City FDNY is attached as Exhibit "A."

6. A copy of a letter dated December 20, 2011, from the undersigned to counsel for the subpoenaing parties confirming the parties' discussions with regard to the subpoena is attached as Exhibit "B."

7. A copy of the City's proposed protective order to ensure the confidentiality of the data that the City provides in response to the subpoena is attached as Exhibit "C."

8. A copy of the City's Objection to the subpoena, which the City provided to counsel for the subpoenaing party, as required by Federal Rule of Civil Procedure 45(c)(2)(B) on December 7, 2011 is attached as Exhibit "D."

9. A copy of the Court's Endorsed Order setting forth the briefing schedule for this motion is attached as Exhibit "E."

10. A copy of Protective Order No. 3, previously entered in this litigation on July 14, 2009, is attached as Exhibit "F."

Dated: New York, New York
December 21, 2011

Respectfully submitted

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York
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By: 

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